

**Certified True Copy of Amendments
to the Rules of the Law Society of Saskatchewan
June 24, 2022**

It was moved, seconded and carried that the *Rules* of the Law Society of Saskatchewan be amended. Please note that deletions have a “line through” for identification purposes.

AMENDMENTS:

Amendments to Rules 703, 815 and 817 were approved to revise the identification requirement for applicants. Amendment to Rule 715 was approved to correct a Rule reference error.

PART 7 – Membership and Practice Privileges

C. Students-at-Law

Admission as a Student-at-law

703 A person applying for admission as a Student-at-law shall submit:

- (a) an application for admission in a form approved by the Committee;
- (b) ~~original or notarial copies a copy~~ of certified government-issued ~~photo identification documentation~~, such as a driver's license, ~~birth certificate or~~ passport or other document acceptable to the Society, verifying the applicant's identity;
- (c) documents establishing the applicant's suitability to practise, including but not limited to:
 - (i) in the case of an applicant who is a member of another governing body of the legal profession, a certificate of standing, dated not more than 30 days before the date of the application, from each governing body stating:
 - (A) whether the applicant is a member in good standing;
 - (B) whether the applicant is presently the subject of any disciplinary proceedings; and
 - (C) the details of any previous disciplinary proceedings taken against the applicant; and
 - (ii) a police record check or such other information from law enforcement as may be required by the Executive Director;
- (d) documents verifying that the applicant:
 - (i) has successfully completed at least two years towards the requirements for a Bachelor's degree or Juris Doctor from a common law faculty of law in a Canadian university approved by the Federation of Law Societies of Canada;
 - (ii) holds a Certificate of Qualification issued by the National Committee on Accreditation of the Federation of Law Societies of Canada; or
 - (iii) has completed all courses and examinations required to obtain a Certificate of Qualification issued by the National Committee on Accreditation of the Federation of Law Societies of Canada;
- (e) in the case of an applicant who was previously a Student-at-law in another Canadian Province or Territory, a document stating the particulars of that experience;
- (f) in the case of an applicant that is not a Canadian citizen, proof of the applicant's entitlement to work in Canada;
- (g) any other information or documents requested by the Executive Director; and
- (h) the Student-at-law application fee as set out in Schedule 1.

D. Lawyers

Formal Admission

715(1) A person who has been approved for admission pursuant to Rules 714, 815 and ~~817~~816 shall, within six months of the date of approval:

(a) deliver to the Executive Director the lawyer enrollment fee or the admission on transfer enrollment fee as applicable, as set out in Schedule 1, and the following annual fees and insurance fees:

(i) one-twelfth of the annual fee payable pursuant to Rule 1402, multiplied by the number of months remaining in the year, including the month of admission as a lawyer; and

(ii) one-twelfth of the liability insurance assessment payable pursuant to Rule 1202, multiplied by the number of months remaining in the policy year, including the month of admission as a lawyer; and

(b) at a date, time and place specified by the Executive Director:

(i) sign the Law Society Roll; and

(ii) take an oath or affirmation in a form approved by the Benchers.

PART 8 – National Mobility and Interjurisdictional Practice

B. Permanent Mobility

Admission as a Transfer Lawyer

815(1) To qualify for admission as a lawyer on transfer an applicant must:

(a) be suitable to practise;

(b) deliver to the Executive Director:

(i) a completed application for admission as a lawyer on transfer, in a form approved by the Committee;

(ii) ~~an original or notarial~~ a copy of a certified government-issued photo identification document, such as a driver's license, ~~birth certificate~~, passport or other document acceptable to the Society, ~~which verifies~~ the applicant's identity;

(iii) in the case of an applicant that is not a Canadian citizen, proof of the applicant's entitlement to work in Canada;

(iv) certificates of standing, dated not more than 30 days before the date of the application, from each of the governing bodies of which the applicant is a member, stating:

(A) whether the applicant is a member in good standing;

(B) whether the applicant is presently the subject of any disciplinary proceedings; and

(C) the details of any previous disciplinary proceedings taken against the applicant;

(v) the admission on transfer application fee as set out in Schedule 1; and

(vi) any other information and documents required by the Act or these Rules that the Executive Director requests.

(2) Rules 715 and 729 apply to applications for admission as a transfer lawyer with any necessary changes.

C. Practice Privileges for Members of the Chambre

Canadian Legal Advisor

817(1) A member of the Chambre with a Canadian Civil Law degree or with a foreign degree and a certificate of equivalency from the Chambre, may apply for admission as a Canadian Legal Advisor by delivering to the Executive Director the following:

(a) a completed application for admission as a Canadian Legal Advisor in a form approved by the Committee;

(b) ~~an original or notarial~~ a copy of certified ~~documents verifying identity, including valid original~~ government-issued photo identification, such as a driver's license, ~~birth certificate~~, passport, or other document acceptable to the Society, verifying the applicant's identity ~~Executive Director~~;

(c) a certificate of standing, dated not more than 30 days before the date of application and in a form acceptable to the Executive Director and issued from each of the governing bodies of which the applicant is a member;

(d) an errors and omissions insurance application or exemption form;

(e) the admission transfer application fee and the admission on transfer enrollment fee, both as set out in Schedule 1; and

(f) any other information and documents required by the Act or these Rules which is requested. (2) Rules 715 and 729 apply to applications for admission as a Canadian Legal Advisor with any necessary changes.

AMENDMENTS:

On May 18, 2022, Bills 54 and 55 received Royal Assent and will come into force effective July 1, 2022. Amendments to the following practice directives and their corresponding forms have been affected by the changes:

- Practice Directive 1 – Remote Execution of Certain Documents via Electronic Means;
- Form PD1 – Declaration of Lawyer who has Witnessed Documents via Electronic Means;
- Practice Directive 3 – Remote Execution of Wills via Electronic Means; and
- Form PD3 – Declaration of Lawyer who has Witnessed a Will via Electronic Means.

These Bills modify various pieces of legislation that gave rise to the ability to execute documents remotely. The changes bring the remote witnessing provisions out of the regulations and into the Acts. They also remove reference to the ability of participants to hear each other and replaced it with a requirement that the parties simply be able to “adequately communicate” with each other. Practice Directives 1 and 3 have been amended to change the location of the provisions, to include each of the slightly different definitions of “electronic means” and to make a few minor housekeeping changes.

Practice Directives 1 and 3, along with their corresponding forms PD1 and PD3 are attached.



**CERTIFIED to be a true copy of the resolutions passed
by the Benchers of the Law Society of Saskatchewan
at their meeting held June 24, 2022.**

TIMOTHY J. BROWN, Q.C.
Executive Director

PRACTICE DIRECTIVES

Practice Directive Number 1 – Remote Execution of Certain Documents via Electronic Means

(Enacted March 25, 2020)

(Amended August 7, 2020)

(Amended - _____, 2022)

Law Society of Saskatchewan Practice Directive

Number 1

Remote Execution of Certain Documents Via Electronic Means

WHEREAS the Government of Saskatchewan has amended The Health Care Directives and Substitute Health Care Decision Makers Act, 2015, The Powers of Attorney Act, 2002, The Electronic Information and Documents Act, 2000 ~~enacted The Electronic Information and Documents (Remote Witnessing) Amendment Regulations, 2020, and The Land Titles (Remote Witnessing) Amendment Regulations, 2020~~ 1, and ~~The Powers of Attorney (Remote Witnessing) Amendment Regulations, 2020~~ to that modify the requirements of how the execution of certain documents may be witnessed by lawyers to allow for the witnessing of signatures via electronic means;

AND WHEREAS 'electronic means' is defined in the relevant legislation as follows:

The Health Care Directives and Substitute Health Care Decision Makers Act, 2015:

'electronic means' means an electronic means of communication that includes visual aspects by which a lawyer and the person making the directive are able to adequately communicate with each other at all times during the course of their meeting.

The Powers of Attorney Act, 2002:

'electronic means' means an electronic means of communication that includes visual aspects by which a lawyer and the grantor of an enduring power of attorney are able to adequately communicate with each other at all times during the course of their meeting.

The Electronic Information and Documents Act, 2000

'electronic means' means an electronic means of communication that includes visual aspects by which a lawyer and the person providing the document are able to adequately communicate with each other at all times during the course of their meeting.

The Land Titles Regulations, 2001

"electronic means" means an electronic means of communication that includes both audio and visual aspects by which a lawyer is able to hear and see the person signing the application at all times during the course of their meeting.

~~as being an electronic method of communication that includes both audio and visual aspects, such that the lawyer and the signator can both hear and see each other during the course of the meeting and execution of the document;~~

AND WHEREAS the Law Society of Saskatchewan is entitled to impose additional regulatory requirements in relation to the manner in which lawyers avail themselves of these ~~regulations~~ remote witnessing provisions;

AND WHEREAS the Law Society of Saskatchewan is authorized to issue directives;

THE LAW SOCIETY OF SASKATCHEWAN HEREBY DIRECTS that lawyers who avail themselves of these ~~remote witnessing provisions~~ regulations shall:

- require that any signator(s) display photo identification, and ensure that they obtain a screen capture (or alternatively a photo of their screen) showing the face of the signator(s) ~~of the documents~~ alongside their photo identification;
- manage risks associated with fraud, identity theft, undue influence, duress and potential lack of capacity by:
 - o Considering whether there are red flags of fraud in the matter;
 - o Assessing whether there is a risk that the client may be subject to undue influence or duress, including observing who else is physically in the room with the client during the execution of documents. If there is such a risk, consider if you are able to assist the client at this time without meeting in person;
 - o Confirming your client's understanding about the documents they are executing and provide adequate opportunity for them to ask questions during the meeting carried out by electronic means.
 - o Being alert to the fact that persons may attempt to use the execution of documents by electronic means and the related remote witnessing provisions as an opportunity to commit fraud or other illegal acts.
- amend any jurats as required to include the words "via electronic means" or other appropriate details to ensure that users of the signed document are fully aware of the manner in which the document was signed.
- prepare a written record, in Form PD1 prescribed by the Law Society of Saskatchewan to be retained by the Lawyer for placement on the client file, detailing how the above noted risks associated with the execution of documents by electronic means were addressed.

Lawyers continue to be required to adhere to all Law Society of Saskatchewan Rules governing client identification and verification.

The Land Titles ~~(Remote Witnessing) Amendment Regulations, 2001~~ 20 pertaining to remote witnessing do not apply to lawyers from outside of Saskatchewan who are not members of the Law Society of Saskatchewan.

(Enacted March 25, 2020)
(Amended August 7, 2020)
(Amended , 2022)

DECLARATION OF LAWYER WHO HAS WITNESSED DOCUMENTS
VIA ELECTRONIC MEANS

- 1.
- 2.
- 3.

1. Have I identified any indicia that the transaction might be fraudulent? _____
2. Did I identify concerns, including the physical presence of a third party in the company of my client while they were signing the documents, suggesting that there is a risk that the client may be subject to undue influence or duress? _____
3. Did I identify concerns about my client's understanding about the documents they are executing? _____
4. Did I identify concerns about my client not having an adequate opportunity to ask questions about the document being signed? _____

I DO SOLEMNLY DECLARE that the statements contained in this form are complete and true in every respect. AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Signature of Lawyer

Practice Directive Number 3 – Remote Execution of Wills via Electronic Means

(Enacted April 16, 2020)

(Amended August 7, 2020)

(Amended _____, 2022)

Law Society of Saskatchewan Practice Directive

Number 3

Remote Execution of Wills Via Electronic Means

WHEREAS the Government of Saskatchewan has amended *The Wills Regulations Act, 1996* in a manner that modifies the requirements of how the execution of wills may be witnessed by lawyers to allow for the witnessing of signatures via electronic means;

AND WHEREAS in *The Wills Act, 1996*, ~~‘electronic means’~~ **‘electronic means’** means an electronic means of communication that includes visual aspects by which a lawyer and the testator of a will and the witnesses are able to adequately communicate with each other at all times during the course of their meeting.

~~means an electronic means of communication that includes both audio and visual aspects by which the testator of a will and the witnesses are able to hear and see each other at all times during the course of their meeting;~~

AND WHEREAS the Law Society of Saskatchewan is entitled to impose additional regulatory requirements in relation to the manner in which lawyers avail themselves of these ~~measures and regulations~~ remote witnessing provisions;

AND WHEREAS the Law Society of Saskatchewan is authorized to issue directives;

THE LAW SOCIETY OF SASKATCHEWAN HEREBY DIRECTS that lawyers who avail themselves of these ~~amended regulations~~ remote witnessing provisions shall:

- upon receipt of a signed but unwitnessed, or partially witnessed, non-holograph will from a testator, a lawyer must, before signing as a witness, complete a line by line comparison of that document against the document that the lawyer created and sent to the client to ensure that no unauthorized alterations have been made while the document has been in transit;
- where the lawyer did not draft the will and is acting as a witness only, and therefore has no document to compare the partially signed will against, the lawyer shall, before signing as a witness, communicate verbally, or through other means, the entire contents of the will ~~read the entirety of the will~~ to the testator during the meeting via electronic means to confirm the intentions of the testator;
- where the testator has made handwritten amendments or interlineations on the face of the will, the amendments/interlineations must be confirmed by the lawyer, word for word, with the testator during the meeting via electronic means;
- require that the ~~signator~~ testator(s) and any witnesses to the will display photo identification, and ensure that they obtain a screen capture (or alternatively a photo of their screen) showing the face of the ~~signator(s)~~ testator and any witnesses of the ~~will documents~~ alongside their photo identification;
- manage risks associated with fraud, identity theft, undue influence, duress and potential lack of capacity by:

- o Considering whether there are red flags of fraud in the matter;

o Assessing whether there is a risk that the testator may be subject to undue influence or duress, including observing who else is physically in the room with the testator during the execution of ~~documents~~the will. If there is such a risk, consider if you are able to assist the testator at this time without meeting in person;

o Confirming the testator's understanding about the ~~documents~~will they are executing and provide adequate opportunity for them to ask questions during the meeting carried out by electronic means; and

o Being alert to the fact that persons may attempt to use the execution of documents by electronic means as an opportunity to commit fraud or other illegal acts.

- amend any jurats as required to include the words "via electronic means" or other appropriate details to ensure that users of the signed document are fully aware of the manner in which the document was signed.

- prepare a written record, in Form PD3 prescribed by the Law Society of Saskatchewan to be retained by the Lawyer~~for placement on the client file~~, detailing how the above noted risks associated with the execution of documents by electronic means were addressed and detailing that the contents of the will were verified through line by line comparison or, where necessary, through ~~oral~~ recitation.

Lawyers continue to be required to adhere to all Law Society of Saskatchewan Rules governing client identification and verification.

Form PD3 – Declaration of Lawyer Who has Witnessed a Will via Electronic Means

(Enacted April 16, 2020)
(Amended August 7, 2020)
Amended _____, 2022

FORM PD3

DECLARATION OF LAWYER WHO HAS WITNESSED A WILL

VIA ELECTRONIC MEANS

I _____, of _____, in the Province of _____, a Lawyer, did on _____, _____ witness, via electronic means, _____ (the "Testator") acknowledge their signature affixed to their will as Testator.

During the meeting via electronic means the second witness signature was dealt with via the following means:

_____ I was physically in the presence of _____, who acted as the second witness to the Testator's acknowledged signature;

OR

_____ The Testator was physically in the presence of _____, who acted as a first, in-person witness to the will and that individual acknowledged their signature to me;

OR

_____ the Testator and I were joined via electronic means by _____, who acted as the first remote witness to the will and that individual acknowledged their signature to me and the Testator. The Testator acknowledged the Testator's signature to both of us.

Pursuant to Law Society of Saskatchewan Practice Directive 3, issued April 16, 2020 and amended August 7, 2020, and _____, 2022 I confirm that:

_____ I have completed a line by line comparison of the will that I prepared against the partially executed will that I received back from the Testator and have confirmed that no unauthorized alterations were made.

OR

_____ I was acting as a witness only in relation to the Testator's will, and as I had no document that I had created to compare to, I ~~read~~ communicated the entirety of the will verbally or by other means ~~aloud~~ to the Testator during our meeting via electronic means to confirm the Testator's intentions.

Any alterations or interlineations on the face of the will that I received from the Testator were ~~read~~ aloud communicated to the Testator and confirmed during our meeting via electronic means.

I have turned my mind to the risks associated with the witnessing of documents via electronic means. I have assessed the following risks, and have answered “yes” or “no” to indicate where I have identified concerns:

1. Have I identified any indicia that the transaction might be fraudulent? ____
2. Did I identify concerns, including the physical presence of a third party in the company of my client while they were signing the documents, suggesting that there is a risk that the client may be subject to undue influence or duress? ____
3. Did I identify concerns about my client’s understanding about the documents they are executing? ____
4. Did I identify concerns about my client not having an adequate opportunity to ask questions about the document being signed? ____

Where I have indicated “yes” to the statements above, I managed the risks by the following means:

Attached hereto is a screen capture of, or a photograph of a screen showing ~~my client~~the testator and any witnesses to the will with their photo identification that was presented to me via electronic means during the session where the above noted documents were executed.

I DO SOLEMNLY DECLARE that the statements contained in this form are complete and true in every respect. AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Date

Signature of Lawyer